

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.1422 OF 2004

Shri Liladhar Shankar Satambekar ..Appellant

Versus

Shri Harishchandra Pandurang Satambekar ..Respondent

Shri S.B.Shetye for appellant

CORAM : P.V.KAKADE, J.

DATE : 7TH JULY, 2005.

P.C.:

1. This appeal is preferred by the appellant against the judgment and order passed by Addl. District Judge, Raigad dated 29.6.2004 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Alibag dated 7.10.1998 decreeing the plaintiff's suit against present appellant for possession and consequential reliefs in respect of the suit property.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit on the ground that House No.14/1 was owned and possessed by him. Plaintiff was residing at some other place due to his service. The defendant was his relative and therefore on request of the defendant house property was given to the defendant for permissive user gratuitously. When the plaintiff required house the defendant refused to do so and therefore the suit notice was issued terminating the licence of the defendant. However, it was not replied to, hence the suit came to be filed. The defendant challenged suit on various grounds and submitted that he was tenant in the suit property and was paying rent but rent receipts were not raised.

. The learned trial judge after hearing both the parties adjudicated the dispute on merits and came to the conclusion that the plaintiff had succeeded in establishing that the defendant was his licensee and not tenant. The suit notice terminating the licence was also proved and hence the suit was decreed. The appeal was carried to the District Court. The learned Addl.

District Judge after hearing both the parties dismissed the appeal on merits confirming the findings recorded by the trial court. Hence the present appeal.

4. At the outset there is no substantial question of law involved in this appeal. The only issue involved in the dispute was whether the defendant was a licensee or a tenant and both the courts below have concurrently held that the plaintiff had proved that the defendant was gratuitous licensee to the suit property and licence was validly terminated by the suit notice. In these circumstances both the courts below have recorded concurrent findings that the plaintiff's suit deserve to be decreed.

. In view of this factual matrix I do not intend to interfere with the findings recorded by both the courts below, hence the second appeal stands dismissed. Consequently the Civil Application NO.1882 of 2004 also stands dismissed.

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